

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

OTIS LEE CASTLEBERRY,

Petitioner,

Case No. 4:05-cv-39

v.

Honorable Wendell A. Miles

JOHN PRELESNIK,

Respondent.

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**ORDER TO STAY**

In accordance with this Court's Order of March 28, 2008, Petitioner filed an affidavit (docket #31) averring that he intends to pursue his available state-court remedies on his unexhausted habeas claims by filing a motion for relief from judgment in the Berrien County Circuit Court. Petitioner also satisfied the requirements of *Rhines v. Weber*, 544 U.S. 269, 276-78 (2005) in his affidavit. Accordingly,

**IT IS ORDERED** that Petitioner's motion to dismiss (docket #25), construed as a motion to stay the proceedings, is **GRANTED**.

**IT IS FURTHER ORDERED** that this action is stayed pending Petitioner's pursuit of his unexhausted claims in the Michigan state courts.

**IT IS FURTHER ORDERED** that Petitioner shall file a motion for relief from judgment in the Berrien County Circuit Court within 30 days of this Order.

**IT IS FURTHER ORDERED** that Petitioner shall file an amended petition setting forth his newly exhausted claims no later than 30 days after a final decision by the Michigan

Supreme Court on his unexhausted claims, and shall include a description of the newly exhausted claims and the date and substance of the decision at each step of state-court review.

**IT IS FURTHER ORDERED** that if Petitioner fails to comply with the deadlines imposed in this order, the Court may dismiss the petition.

**IT IS FURTHER ORDERED** that Petitioner shall advise the Court of any change of address occurring during the pendency of the stay.

**IT IS FURTHER ORDERED** that this case shall be administratively closed until such time a Petitioner files a motion to amend his petition in accordance with the procedures set forth in this order.

Dated: April 24, 2008

/s/ Wendell A. Miles  
Wendell A. Miles  
Senior United States District Judge